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11 **UNITED STATES DISTRICT COURT**

12 **DISTRICT OF NEVADA**

13 MARIELLEN M. WALLACE, individually;) CASE NO.: 2:10-cv-01855

14 Plaintiff,)

15 vs.)

16 USAA LIFE GENERAL AGENCY, INC.,)
17 a foreign corporation, DOES I through X and ROE)
18 CORPORATIONS I through X, inclusive;)

19 Defendants.)

20 AND ALL RELATED CLAIMS)

21 1950.023916 - tm

22 **REPORT OF PARTIES' PLANNING MEETING,**
STIPULATED DISCOVERY PLAN AND SCHEDULING ORDER
(SPECIAL SCHEDULING REVIEW REQUESTED)

23 1. **Meeting:** Pursuant to Local Rule 26-1, a telephonic meeting was held on December
24 8, 2010 at 4:00 p.m. and was attended by: John C. Courtney, Esq. on behalf of Plaintiff, Mariellen
25 M. Wallace, and Kathleen M Maynard, Esq. on behalf of Defendant, USAA Life Insurance
Company, Inc.

26 2. **Date that First Defendant Appeared:** October 22, 2010.

27 3. **Date to Exchange Initial Disclosures:** January 4, 2010 in accordance with
28 Fed.R.Civ.P. 26(a).

29 4. **Discovery Plan:** The parties propose the following discovery plan:

30 **A. Methods of Discovery:**

31 The parties intend to serve written discovery requests and take depositions, as follows:

32 i. Maximum Number of Interrogatories by Each Party: Standard;

- 1 ii. Time to Respond to Interrogatories: 30 Days;
- 2 iii. Maximum Number of Requests for Admissions: Standard;
- 3 iv. Time to Respond to Requests for Admissions: 30 Days;
- 4 v. Maximum Number of Depositions by Each Party: No Limitation;
- 5 vi. Limit on Length of Depositions: No Limitation.

6 **B. Subjects of Discovery:**

7 Discovery may be conducted on all matters pursuant to Fed.R.Civ.P. 26(b).

8 **C. Discovery Cut-Off Date:**

9 The parties seek special consideration in this proposed plan. Although the plan is in general
10 accordance with LR 26-1(e), the parties are hereby requesting an additional ninety (90) days beyond
11 the customary one-hundred eighty (180) days to conduct discovery, measured from October 22,
12 2010, when Defendant first appeared in this case by filing its Notice of Removal.

13 The additional time for discovery is requested for several reasons. First, there are medical
14 issues that may involve depositions of treating physicians as well as medical experts. There will be
15 standard of care experts regarding claims handling who will likely need to be deposed. The parties
16 submit that as is typical in matters like this, virtually all of the discovery must be completed before
17 experts can arrive at and testify as to their opinions.

18 Additionally, the parties anticipate that depositions of the claims handlers will need to be
19 taken in Texas. The individuals who will likely be witnesses on behalf of USAA are currently
20 involved and will continue to be involved in the near future as witnesses in other litigation involving
21 USAA. Therefore, their availability over the next few months is limited. They will have additional
22 availability during the requested extended timeframe. The last proposed day of discovery shall be
23 July 19, 2011, which is two-hundred seventy (270) days from the date when Defendant first
24 appeared.

25 **D. Fed.R.Civ.P. 62(a)(2) Disclosures (Experts):**

26 Disclosure of experts shall proceed according to Fed.R.Civ.P. 26(a)2 except that:

- 27 i. The disclosure of Plaintiff's experts and expert reports shall occur May 18,
28 2011, which is sixty (60) days before the discovery cut-off date;

1 ii. The disclosure of Defendant's rebuttal experts and rebuttal expert reports
2 shall occur on June 17, 2011.

3 **5. Amendment of the Pleadings and Adding Parties:** The parties shall have until
4 April 18, 2011, to file any motion to amend the pleadings or to add parties. This is ninety (90) days
5 before the discovery cut-off, which is in accordance with LR 26-1(e)(2).

6 **6. Interim Status Reports:** The parties shall file their first interim status report by
7 February 18, 2011. They shall file their second interim status report required by LR 26-3 by May
8 18, 2011, which is sixty (60) days before the discovery cut-off date.

9 **7. Dispositive Motions:** The parties shall have until August 19, 2011, to file dispositive
10 motions, which does not exceed thirty (30) days from the discovery cut-off date that LR 26-1(e)(4)
11 presumptively set for filing dispositive motions.

12 **8. Joint Pre-Trial Order:** The parties shall file their joint pre-trial brief on or before
13 September 24, 2011. In the event dispositive motions are filed, the date for filing the Joint Pre-Trial
14 Brief shall be suspended until thirty (30) days after decision of the dispositive motions or further
15 order of the Court.

16 **9. Fed.R.Civ.P. 26(a)(3) Disclosures:** The disclosures required by Fed.R.Civ.P.
17 26(a)(3) and any objections thereto shall be included in the Pre-Trial Order.

18 **10. Settlement Prospects in this Case May be Enhanced by:** The likelihood of
19 settlement cannot presently be established. However, the parties have discussed mediation and
20 reserve their rights to seek mediation. The parties reserve their rights to seek amendment of this
21 discovery plan should mediation commence prior to the close of discovery, given that the mediation
22 is unsuccessful and is a cause of substantial delay in the discovery process.

23 **11. Electronic Discovery and Confidentiality Issues:** The Parties will work
24 cooperatively together with regard to Electronic Discovery and Confidentiality Issues.

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27 ...

28 ...

1 12. **Reservation of Rights:** All of the parties reserve their rights and this discovery plan
2 shall not be deemed to constitute a waiver of any of the Parties' rights concerning the filing of any
3 motion.

4 DATED this 13th day of December, 2010.

5 JOHN PETER LEE, LTD.

THORNDAL, ARMSTRONG, DELK
BALKENBUSH & EISINGER

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16 IT IS SO ORDERED this 16th day of December, 2010.

LJ Lewis

17 UNITED STATES MAGISTRATE JUDGE

18 Submitted by:

19 JOHN PETER LEE, LTD.

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